

RUSSELL P. COHEN (SBN 213105)
Russ.Cohen@dechert.com
Dechert LLP
1 Bush Street, Suite 1600
San Francisco, CA 94104
Telephone: +1 415 262 4500

Attorney for Non-Party Microsoft Corp.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

Epic Games, Inc. v. Google LLC et al.
Case No. 3:20-cv-05671-JD

Case No. 3:21-md-02981-JD

**DECLARATION OF FRANCISCO RIUS
ISO NON-PARTY MICROSOFT CORP'S
REQUEST TO SEAL HIGHLY
CONFIDENTIAL INFORMATION**

Honorable James Donato

1 I, Francisco Rius, declare as follows:

2 1. I am the Head of Data Science and Data Engineering for Minecraft at Microsoft
 3 Corp. ("Microsoft"). My responsibilities include managing data governance and analytics for the
 4 Minecraft studio, and reconciling and reporting performance indicators for Minecraft, including
 5 monthly active users ("MAUs"). I am familiar with Microsoft's strategy and business practices
 6 regarding what Minecraft information Microsoft considers confidential and does not disclose to the
 7 public. As part of my responsibilities, I pulled the underlying data and created the document,
 8 MSFT_GOPLAY_00009666, that is the source for the demonstrative that Epic Games, LLC
 9 ("Epic") intends to display in open court tomorrow. I have personal knowledge of the facts set
 10 forth herein.

11 2. On November 30, 2023, I understand that counsel for Epic advised counsel for
 12 Microsoft that it intends to present in Court tomorrow, December 1, 2023, confidential Microsoft
 13 information related to Minecraft usage on various platforms. The confidential information comes
 14 from a Microsoft document, MSFT_GOPLAY_00009666, which I created from Microsoft data
 15 reporting Minecraft usage in the U.S. by platform. The document was labeled by our counsel "Non-
 16 Party Highly Confidential – Outside Counsel Eyes Only" and designated as "Confidential –
 17 Attorneys' Eyes Only" pursuant to the terms of the Stipulated Protective Order. I understand that
 18 the Microsoft confidential information is intended to be included in an Epic demonstrative that
 19 discloses Minecraft MAUs by platform.

20 3. Microsoft respectfully requests that the demonstrative, which is based on
 21 "Confidential – Attorneys' Eyes Only" information, and any testimony describing it, either be
 22 sealed or otherwise not shown to the public and described in detail in open court because the
 23 demonstrative contains competitively sensitive information that would harm Microsoft and its
 24 platform partners if publicly disclosed.

25 4. Specifically, the demonstrative discloses the average number of monthly Minecraft
 26 MAUs by platform through October 2021. This includes Microsoft platforms, like Xbox, and also
 27 third-party platforms such as Nintendo and PlayStation. With the limited exception of aggregated

1 information relating only to the Xbox platform, Microsoft has not publicly disclosed this
 2 information. Disclosure of this information would harm Microsoft as well as its platform partners
 3 in at least the following ways. First, usage information by platform is competitively sensitive for
 4 Microsoft. Microsoft does not disclose this information. If platform-specific data were disclosed
 5 publicly by Epic or its witness, it would impact Microsoft in negotiations with the various platform
 6 owners who would gain leverage over Microsoft and harm Microsoft's ability to gain users on other
 7 Minecraft platforms. Second, disclosure of platform-specific usage data would competitively
 8 impact Microsoft's partners, who would be very concerned with the disclosure of MAU data for
 9 their platform to their competitors. Finally, disclosure of the platform-specific usage data, without
 10 necessary context for the geographies and SKUs that are included or excluded, could create
 11 marketplace confusion based on discrepancies between the data and publicly reported global
 12 aggregate numbers. I believe that the public has little, if any, interest in this non-party information
 13 and the competitive harm that disclosure would create for Microsoft and its partners outweighs any
 14 slight public interest that may exist. As such, there exists good cause and compelling reasons for
 15 sealing this information.

16 I declare under penalty of perjury under the laws of the United States of America that the
 17 foregoing is true and correct to the best of my knowledge.

18 Executed on: November 30, 2023



Francisco Rius

19
 20
 21
 22
 23
 24
 25
 26
 27
 28